

# CORRECTIONS IMPACT STATEMENT

SESSION: 16RS

BILL #: HB 154

BR #: 892

DOC ID#:

**BILL SPONSOR(S):** Rep. G. Watkins     **AMENDMENT SPONSOR(S):**

**SUBJECT:** AN ACT relating to crimes and punishments.

**SUMMARY OF LEGISLATION:** Create a new section of KRS Chapter 218A to apply a uniform penalty of mandatory drug treatment and community service to persons convicted of possessing certain drugs and paraphernalia; amend KRS 218A.140 to lower possession of counterfeit substances from a Class D felony to a Class A misdemeanor; amend KRS 218A.1415 to lower possession of a controlled substance from a Class D felony to a Class A misdemeanor; amend KRS 218A.1437 to lower possession of a methamphetamine precursor from a Class D felony to a Class A misdemeanor; amend KRS 218A.276 to require that defendants convicted of possession of a counterfeit substance under KRS 218A.140, marijuana pursuant to KRS 218A.1422, synthetic drugs pursuant to 218A.1430, methamphetamine precursors pursuant to 218A.1437, salvia pursuant to KRS 218A.1451, or drug paraphernalia pursuant to KRS 218A.500 complete a drug treatment program; amend KRS 218A.275 to require that defendants convicted of possession of a controlled substance under various sections of Chapter 218A complete a drug treatment program; amend KRS 431.078 to conform.

This  bill    amendment    committee substitute is expected to:

Have the following Corrections impact    Have no Corrections impact

- |  |   |
|--|---|
| <input type="checkbox"/> Creates new crime(s)                              | <input type="checkbox"/> Repeals existing crime(s)                          |
| <input type="checkbox"/> Increases penalty for existing crime(s)           | <input checked="" type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration                           | <input type="checkbox"/> Decreases incarceration                            |
| <input type="checkbox"/> Reduces inmate/offender services                  | <input type="checkbox"/> Increases inmate/offender services                 |
| <input checked="" type="checkbox"/> Increases staff time or positions      | <input type="checkbox"/> Reduces staff time or positions                    |
| <input type="checkbox"/> Changes elements of offense for existing crime(s) |   |
| <input type="checkbox"/> Otherwise impacts incarceration (Explain) _____   |   |

**STATE IMPACT:** Class A, B & C felonies are based on an average daily prison rate of \$60.38. Most Class D felons are housed in one of 78 full service jails for up to 5 years. DOC's cost to incarcerate a felony inmate in a jail is \$32.92 per day (includes jail per diem, medical & central office costs), not including substance abuse treatment. Projections are based on the daily rate x 365 x number of years.

**Projected Impact:**    NONE    MINIMAL    MODERATE    SIGNIFICANT

Potential Impact: Section 1 The proposed legislation affects several areas within the Department of Corrections. The crime of Possession of a controlled substance in the first degree would be reduced from a Class D felony to a Class A misdemeanor. This would reduce the number of incarcerated felony offenders. Section 2. (5.) reduces the penalty for a person who possess, manufactures, sells dispenses, prescribes, distributes or administers any counterfeit substance from a Class D felony to a Class A misdemeanor. Additionally, possession of a methamphetamine precursor would be reduced from a Class D felony to a Class A misdemeanor.

There are currently 543 individuals in the Department of Corrections custody serving only on Possession of a controlled substance Class D. 1 Class D felon/costs \$11,866 to \$60,072. Using this figure, The Department of Corrections could save up to \$32,619,096 over the length of incarceration.

There are 104 inmates serving on possession of a methamphetamine precursor. By reducing the possession of a Methamphetamine precursor to a class A misdemeanor the Department of Corrections could save \$1,234,064.00 in a year.

Section 5. (1) States that court shall request that the Division of Probation and parole preform a risk and needs assessment for any person guilty of several different types of substance abuse charges and drug paraphernalia charges. The assessor would make a recommendation as to what type of treatment is indicated the assessment. This will increase staff time in order to comply with this section.

Each new misdemeanant required to serve time in a county jail may pose costs to the state if these additional misdemeanants reduce the Department of Corrections' ability to utilize county jail beds. Specifically, if jail beds are exhausted by county inmates, this reduces the number of beds available to the Department to house nonviolent Class C and Class D felons. In addition to this, the Department indicated that it costs the state \$.057 per county inmate per day to utilize the Department's contract medical, dental, and psychological care access plan pursuant to KRS 441.053

**LOCAL IMPACT:** Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until disposition of the case. While the expense varies by jail, this estimated impact will be based on \$32.25 per day, which equals the per diem and medical that DOC pays jails to house felony offenders.

Potential Impact: Section 3 The proposed legislation would result in an increase in the number of persons who would be serving time in a local facility on Class A misdemeanors related to drug offenses.

Based on the \$32.25 per diem rate, the local impact is estimated as follows:

A Class A misdemeanor is 90 days to 1 year in jail                      10 Class A misdemeanants: \$29,025 to 117,713.

1 Class A misdemeanant: \$2,903. to \$11,771.                              100 Class A misdemeanants: \$290,250 to \$1.1M.

**The following offices contributed to this Corrections Impact Statement:**

Dept. of Corrections     Dept. of Kentucky State Police     Administrative Office of the Courts     Parole Board     Other

**NOTE: Consideration should be given to the cumulative impact of all bills that increase the felon population or that impose new obligations on state or local governments.**

**APPROVED BY:** \_\_\_\_\_ Date \_\_\_\_\_  
Commissioner, Kentucky Department of Corrections